



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROWN BROS AGENCIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of a One Month Notice to End Tenancy for Cause (One Month Notice), pursuant to section 47 of the *Act*.

The landlord's agent E.H., herein referred to as "the landlord" attended at the date and time set for the hearing of this matter, on behalf of the landlord who was the respondent in this matter. The tenant, who was the applicant in this matter, did not attend this hearing, although I left the teleconference hearing connection open until 11:19 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Dispute Resolution Proceeding. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

Rule 7.3 of the Rules of Procedure provides as follows:

7.3 Consequences of not attending the hearing – If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application with or without leave to reapply.

Therefore, in the absence of the tenant's attendance at this hearing, I order the tenant's application in its entirety dismissed without liberty to reapply.

Preliminary Issue – Amendment of Tenant’s Application

The landlord confirmed that the dispute address provided on the tenant’s application required correction as the qualifier of “Bsmt” need to be added. Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the tenant’s Application to provide the correct dispute address.

The landlord noted that the name of the corporate property management company acting on behalf of the property owner was incorrectly provided on the tenant’s Application for Dispute Resolution. Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the tenant’s Application to provide the correct legal name of the corporate property management company named as the landlord in this matter.

Preliminary Issue - Procedural Matters

Section 55 of the *Act* requires that when a tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a landlord I must consider if the landlord is entitled to an order of possession if the tenant’s Application is dismissed and the landlord has issued a notice to end tenancy that is compliant with section 52 of the *Act*.

Issue(s) to be Decided

Should the landlord be granted an Order of Possession on the basis of the One Month Notice to End Tenancy for Cause pursuant to section 55 of the *Act*?

Background and Evidence

The landlord’s agent E.H. provided unchallenged affirmed testimony that on May 24, 2019, the tenant was served with the One Month Notice by Canada Post registered mail. The landlord submitted a #RTB-34 Proof of Service form which provided the registered mail tracking number (noted on the cover sheet of this Decision), and the tracking report which stated that the registered mail had been delivered on May 27, 2019.

I note that the tenant’s Application for Dispute Resolution confirmed the landlord’s testimony as the Application stated that the One Month Notice was dated May 24, 2019 and was received by registered mail.

Both the tenant and the landlord submitted into evidence a copy of the One Month Notice which states an effective move-out date of June 30, 2019, with the following boxes checked off as the reason for seeking an end to this tenancy:

Tenant or a person permitted on the property by the tenant has:

- *put the landlord's property at significant risk.*

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord provided unchallenged testimony that the notice was issued after having provided the tenant with warning letters in April 2018 and June 2018 to clean up the property. The landlord described the condition of the garage as a “junk yard”, that there were unlicensed vehicles in the driveway, and that on May 6, 2019 the landlord received notice of a municipal bylaw infraction due to unlicensed vehicles and vehicle parts on the property.

In support of their testimony, the landlord also submitted into documentary evidence copies of the two warning letters and the letter received from the Bylaw Enforcement Officer which provided the following directions:

To rectify this bylaw violation you are directed to move, remove or licence all of the unlicensed vehicles, and ensure that all detached vehicle parts are removed the property or stored in a permitted building by May 29, 2019. One (1) unlicensed vehicle is permitted in the rear or side yard.

The landlord also referred to the written tenancy agreement submitted into evidence which requires under item 3 of the Addendum as follows:

- 3. Tenant(s) to take care of the property which includes; (1) cutting the lawn; and (2) keeping the property clean and free of junk at all times.*

Analysis

Section 55 of the Act provides that:

If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

In this case, I have dismissed the tenant's application in its entirety, without leave to reapply, as the tenant failed to attend the hearing to present evidence.

Therefore, I now must consider if the landlord's One Month Notice meets the requirements of section 52 of the *Act* to determine if the landlord is entitled to an Order of Possession.

Section 52 of the *Act* provides that:

In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy,
- (d.1) for a notice under section 45.1 [*tenant's notice: family violence or long-term care*], be accompanied by a statement made in accordance with section 45.2 [*confirmation of eligibility*], and
- (e) when given by a landlord, be in the approved form.

In the matter at hand, the both parties submitted a copy of the One Month Notice into evidence.

I have reviewed the One Month Notice and I find that the notice complies with the form and content requirements of section 52 as it is signed and dated by the landlord, provides the address of the rental unit, the effective date of the notice, and the grounds for the tenancy to end. I accept the landlord's unchallenged testimony and submitted documentary evidence that the tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Accordingly, I find that the landlord is entitled to an Order of Possession pursuant to section 55 of the *Act*. As the effective date of the notice has passed, I issue an Order of Possession effective two (2) days after being served upon the tenant.

Conclusion

The tenant's application is dismissed in its entirety, without leave to reapply.

I grant an Order of Possession to the landlord effective **two (2) days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 24, 2019

Residential Tenancy Branch